



House of Representatives

General Assembly

File No. 558

February Session, 2002

Substitute House Bill No. 5639

House of Representatives, April 23, 2002

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING LOWER DRUG COSTS FOR CONSUMERS AND THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2002*) (a) There is established an
2 Affordable Prescription Drug Board. The board shall consist of: (1)
3 Three members appointed by the speaker of the House of
4 Representatives, at least one of whom is a pharmacist licensed in
5 Connecticut; (2) three members appointed by the president pro
6 tempore of the Senate, at least one of whom is a representative of a
7 pharmaceutical company with manufacturing operations in
8 Connecticut; (3) three members appointed by the majority leader of the
9 House of Representatives, at least one of whom is a representative of a
10 hospital licensed in Connecticut; (4) three members appointed by the
11 minority leader of the House of Representatives, at least one of whom
12 is a physician licensed in Connecticut; (5) three members appointed by
13 the majority leader of the Senate, at least one of whom is a

14 representative of a health insurer licensed in Connecticut; (6) three
15 members appointed by the minority leader of the Senate, at least one of
16 whom is a health care provider other than a physician licensed in
17 Connecticut with prescriptive authority; (7) two members appointed
18 by the Governor; and (8) the Commissioner of Social Services, or the
19 commissioner's designee. At least one member appointed by each
20 person pursuant to this subsection shall be a consumer that purchases
21 prescription drugs and who is not a health care provider and
22 pharmacist and who is not employed or was not formerly employed
23 by any pharmaceutical drug manufacturer or distributor or pharmacy.
24 At the first meeting of the board, and annually thereafter, the members
25 shall elect two members to serve as cochairpersons of the board. The
26 Department of Social Services shall provide such staff as is necessary
27 for the performance of the functions and duties of the board.

28 (b) Not later than January 1, 2003, and annually thereafter, the board
29 shall distribute the wholesale price, the Canadian wholesale price, the
30 federal Supply Schedule price, retail prices in Connecticut, the prices
31 charged to other governmental agencies, health care facilities, health
32 insurance companies and other purchasers, and such other
33 information as the board deems relevant for the fifty prescription
34 drugs with the highest sales volume sold through the ConnPACE
35 program.

36 (c) The board shall distribute the information gathered pursuant to
37 subsection (b) of this section to all retail pharmacies in this state and
38 the Commissioner of Social Services shall post such schedule on the
39 Department of Social Services' Internet web site.

40 (d) The Commissioner of Social Services shall submit a report to the
41 board and the General Assembly in accordance with section 11-4a of
42 the general statutes not later than September 1, 2002, and annually
43 thereafter, detailing state options for lowering drug prices for the state
44 of Connecticut, businesses and consumers. Such report shall detail
45 major strategies used in other states to lower drug prices and the effect
46 of such strategies on health access, including, but not limited to,

47 negotiation of supplemental Medicaid rebates, bulk purchasing of
48 medications in-state or through multi-state pools, accessing Medicaid
49 rebates for consumers and pharmacies through federal Medicaid
50 waivers, variations of pharmacy assistance programs and benefits
51 offered, expansion of state and private consumer assistance and
52 discount programs, strategies used to access federal pricing schedules
53 and expand programs established pursuant to 42 USC 256b, and local
54 programs to provide discounts to subsets of residents, and any other
55 findings and recommendations as the Commissioner of Social Services
56 deems appropriate. Such report shall include comment on available
57 processes for public input for each strategy highlighted. The board,
58 with the chairs and ranking members of the committees of cognizance,
59 shall conduct a public hearing before the commencement of the
60 legislative session to evaluate the options contained in the report.

61 Sec. 2. (NEW) (*Effective July 1, 2002*) On or before March 31, 2003,
62 and annually thereafter, any manufacturer of prescription drugs which
63 were sold in this state during the preceding calendar year shall file a
64 report with the Affordable Prescription Drug Board established
65 pursuant to section 1 of this act. Such report shall disclose the
66 aggregate amount of expenses for advertising in newspapers and on
67 radio and television stations based in Connecticut and promotions to
68 health care providers, whose offices are based in Connecticut, of
69 prescription drugs for the preceding calendar year. For purposes of
70 this section, promotions include free samples, media events, gifts,
71 trips, conferences or meals. The annual report shall list expenses for
72 promotions by such categories and such other categories as the
73 manufacturer may determine appropriate. No later than thirty days
74 after receipt of such report, the board shall file such report with the
75 joint standing committee of the General Assembly having cognizance
76 of matters relating to human services. The Affordable Prescription
77 Drug Board shall prescribe the form for such report for use by such
78 manufacturers.

79 Sec. 3. Section 104 of public act 01-9 of the June special session is
80 repealed and the following is substituted in lieu thereof (*Effective July*

81 1, 2002):

82 The Commissioner of Social Services shall, within available
83 appropriations, make information available to senior citizens and
84 disabled persons concerning any pharmaceutical company's drug
85 program for indigent persons by utilizing the ConnPACE program, the
86 CHOICES health insurance counseling and assistance program, as
87 defined in section 17b-427a, and Infoline of Connecticut to deliver such
88 information. The commissioner, with advice from the Affordable
89 Prescription Drug Board established pursuant to section 1 of this act,
90 shall coordinate state public assistance health plan benefits through
91 use of such programs, and shall work with the pharmaceutical
92 manufacturers to facilitate the use of a single application form for such
93 programs.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>July 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>

Statement of Legislative Commissioners:

In subsection (b) of section 1, the phrase "ConnPACE Part A and Part B programs" was changed to "ConnPACE program" for accuracy and consistency with the general statutes.

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$	FY 04 \$
General Fund - Cost	Department of Social Services	Minimal	Minimal
General Fund - Cost	Office of Legislative Management	Minimal	Minimal

Municipal Impact: None

Explanation

The bill establishes an Affordable Prescription Drug Board, requires the Department of Social Services (DSS) to submit an annual report on lowering drug prices, mandates the reporting of expenditures on advertising and promotions by pharmaceutical manufacturers, requires DSS to coordinate public assistance health plan benefits through ConnPACE, the CHOICES program and Infoline, and requires the agency to work with pharmaceutical manufacturers to facilitate the use of a single application form for these programs. Fiscal impacts are as follows:

AFFORDABLE PRESCRIPTION DRUG BOARD

The bill establishes an Affordable Prescription Drug Board, which would be charged with disseminating pharmaceutical pricing information to all retail pharmacies in the state as well as issuing an annual report to the General Assembly. It is unclear which agency (DSS or the Office of Legislative Management) would be responsible for the printing and mailing costs for this annual report, which might fall in the \$5,000 - \$7,000 range. There are 622 retail pharmacies in Connecticut. No appropriation has been provided for the Board

within sHB 5019 (the Revised FY 03 Appropriations Act, as favorably reported by the Appropriations Committee).

To the extent that members of the General Assembly are appointed to the Board, the Office of Legislative Management (OLM) may incur a minimal cost. A total cost of less than \$2,500 annually may result from mileage reimbursement to legislators due to traveling to and from board/committee meetings. Legislators are currently reimbursed 36.5 cents per mile. Considering that legislators may be traveling to the Capitol on other legislative business, any additional cost due to an increased number of reimbursed trips could be handled within the anticipated budgetary resources of the office.

The bill requires manufacturers of prescription drugs sold in the state to file a report with the Affordable Prescription Drug Board. The Board must then file such reports with the General Assembly. It is anticipated that DSS can provide staff support to the Board, post the schedule of prices it compiles upon its website and facilitate the submittal of information filed by manufacturers to the General Assembly within its normally budgeted resources.

REPORT TO THE LEGISLATURE

The bill requires DSS to submit a report to the Affordable Prescription Drug Board and the General Assembly by September 1, 2002 and annually thereafter on options for lowering drug prices. It is anticipated that DSS will be able to comply with this requirement within its anticipated budgetary resources.

Additionally, it requires the chair-persons and ranking members of the committees of cognizance (presumably Aging, Appropriations and Human Services) to attend a public hearing before the commencement of each year's legislative session to review this report. This will generate minimal costs to OLM for mileage reimbursement for these twelve legislators.

INFORMATION REGARDING DRUG PROGRAMS FOR

INDIGENT PERSONS

It is anticipated that DSS will be able to collaborate with pharmaceutical manufacturers to facilitate development of a single application form for assistance programs to indigent persons within the agency's normally budgeted resources. This assumes that manufacturers will make the standardized form available to interested parties and not the department.

OLR Bill Analysis

sHB 5639

**AN ACT CONCERNING LOWER DRUG COSTS FOR CONSUMERS
AND THE STATE****SUMMARY:**

This bill:

1. establishes a 21-member Affordable Prescription Drug Board and prescribes its duties, including distributing lists of wholesale and other prices for the 50 most-prescribed drugs in the ConnPACE (Connecticut Pharmaceutical Contract to the Elderly and Disabled) program;
2. requires the Department of Social Services (DSS) commissioner to submit an annual report to the Affordable Prescription Drug Board and the General Assembly detailing state options and potential strategies for lowering drug prices for the state, businesses, and consumers;
3. requires drug manufacturers whose drugs are sold in the state to file annual reports with the new board disclosing their expenses for advertising and promoting drugs sold in Connecticut; and
4. requires the DSS commissioner, with the board's advice, to coordinate public assistance health plan benefits through use of manufacturers' assistance programs for indigent people and to work with drug manufacturers to facilitate a single application form for such programs.

EFFECTIVE DATE: July 1, 2002

AFFORDABLE PRESCRIPTION DRUG BOARD

The bill establishes a 21-member Affordable Prescription Drug Board, consisting of the DSS commissioner or her designee and 20 other members appointed by the governor and legislative leaders as follows:

Appointing Authority	Appointees	Special Provisions
House speaker	3	One must be a Connecticut-

		licensed pharmacist.
Senate president pro tempore	3	One must represent a pharmaceutical company with manufacturing operations in Connecticut.
House majority leader	3	One must represent a Connecticut-licensed hospital.
House minority leader	3	One must be a Connecticut-licensed physician.
Senate majority leader	3	One must represent a Connecticut-licensed health insurer.
Senate minority leader	3	One must be a Connecticut-licensed health care provider with prescriptive authority, other than a physician.
Governor	2	None

At least one member chosen by each appointing authority must be a consumer who purchases prescription drugs and who is not a health care provider, pharmacist, or someone employed or formerly employed by a pharmaceutical drug manufacturer, distributor, or pharmacy. At the board's first meeting and then annually, the members must elect two cochairmen. DSS must provide the staff needed to perform the board's duties and functions.

By January 1, 2003, and annually thereafter, the board must distribute the wholesale price; the Canadian wholesale price; the federal Supply Schedule price; retail prices in Connecticut; the prices charged to other government agencies, health care facilities, health insurance companies and other purchasers; and whatever other information the board finds relevant for the 50 prescription drugs with the highest sales volume for the ConnPACE program.

The board must distribute the information gathered to all retail pharmacies in the state and the DSS commissioner must post it on the department's website.

REPORT ON OPTIONS FOR LOWERING DRUG PRICES

The DSS commissioner must submit a report to the Affordable Prescription Drug Board and the General Assembly by September 1,

2002, and annually thereafter, detailing state options for lowering drug prices for the state, businesses, and consumers. The report must include (1) major strategies used in other states to lower drug prices and their effect on health access, including such strategies as negotiating supplemental Medicaid rebates, bulk purchasing in-state or through multi-state pools, accessing Medicaid rebates for consumers and pharmacies through federal Medicaid waivers, variations of pharmacy assistance programs and benefits offered, expanding state and private consumer assistance and discount programs; (2) strategies used to access federal pricing schedules and expand prescription purchasing programs for federally qualified health centers and other qualified community health entities (42 USC § 256b); (3) local programs to provide discounts to subsets of residents; and (4) any other findings and recommendations the commissioner deems appropriate. The report must include comment on available processes for public input for each strategy highlighted. The board, together with the chairmen and ranking members of the legislative committees of cognizance, must conduct a public hearing before the beginning of the legislative session to evaluate the report's options.

DRUG MANUFACTURER ADVERTISING AND PROMOTIONAL COSTS

By March 31, 2003, and annually thereafter, the bill requires manufacturers of prescription drugs sold in Connecticut during the previous calendar year to file an annual report with the Affordable Prescription Drug Board. The report must disclose aggregate Connecticut-based newspaper, radio, and television advertising and promotional expenses. Promotions include free samples, media events, gifts, trips, conferences, or meals for health care providers whose offices are based in Connecticut. Manufacturers must list expenses for promotions by these and other categories the manufacturers determine appropriate. The board must prescribe the form for the report.

The board must, within 30 days of receiving the report, file it with the Human Services Committee.

BACKGROUND

Federally Qualified Health Centers

"Federally qualified health centers" are community health centers meeting specific federal criteria in order to receive federal funding.

They can establish and operate in-house pharmacies. The federal government sets what is called the “Federal Supply Schedule” for drugs used in Medicare, veterans’ hospitals and other federally funded programs. These programs will not buy any drug from any company unless it allows all its drugs to be purchased by the federal supply schedule.

Legislative History

On April 3, the House referred the bill to the Education Committee, which reported it favorably unchanged on April 8. On April 10, the House referred the bill to the Government Administration and Elections Committee, which deleted all of the original provisions except the four in this version, made a few minor changes in the remaining text, and reported the substitute favorably on April 15.

The deleted sections (File 231) would have (1) created a Part B component in the ConnPACE program and renamed the existing program Part A; (2) set income limits for Part B at 400% of federal poverty level (FPL) for people over age 65 and disabled people and 300% of FPL for people under age 65 who are not disabled, with automatic annual increases in these income limits using the higher of two inflation indices; (3) allowed applicants for Part B to deduct prescription drug expenses from income in eligibility determinations; (4) directed the DSS commissioner to apply for a federal waiver to run the Part B program, which would have allowed enrollees to purchase drugs at the price the state pays under the Medicaid program; (5) established a Department of Public Health grant program for educating consumers on buying drugs at the lowest possible price; (6) required licensing of people who engage in pharmaceutical marketing; (7) required Connecticut to participate in the Northeast Legislative Association on Prescription Drug Pricing; and (8) established a DSS-administered grant program to fund the initial costs of implementing an affordable prescription drug program through federally qualified health centers.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 11 Nay 7

Education Committee

Joint Favorable Report

Yea 16 Nay 9

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 20 Nay 0